

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: August 17, 2005

Division: County Attorney

Bulk Item: Yes ☐ No ☒

Department: County Attorney

Staff Contact Person: Bob Shillinger x3470

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**AGENDA ITEM WORDING:**

Approval of settlement agreement in *Monroe County v. Mark Fraleigh*, CA P 03 647.

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**ITEM BACKGROUND:** The County sued Mr. Fraleigh to force him to remove structures he purchased which encroach on the County's right of way on Card Sound Road. A tentative settlement agreement was reached after mediation on July 26, 2005. Under the agreement, Mr. Fraleigh would remove all obstructions, except for the stairs and trees, located within the County's right-of-way within the 30 day period following the Board's approval of the agreement. The trees that exist in the right of way would be removed upon direction of the County biologist. Under the agreement, the County would grant Mr. Fraleigh a revocable license to maintain the stairs that lead to the house while he negotiates with the State regarding the continued existence and/or ownership of that structure.

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**PREVIOUS RELEVANT BOCC ACTION:** The Board approved initiation of litigation against the prior owner on 4/17/02; on 7/14/04, Board rejected a solicitation to purchase the structures; On 2/16/05 Board gave direction to explore possibilities of alternative uses for the house.

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**CONTRACT/AGREEMENT CHANGES:** n/a

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**STAFF RECOMMENDATIONS:** Approval.

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**TOTAL COST:** n/a

**BUDGETED:** Yes ☐ No ☐

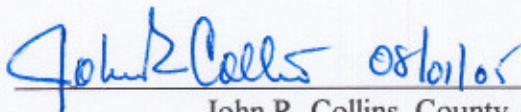
**COST TO COUNTY:** n/a

**SOURCE OF FUNDS:** n/a

**REVENUE PRODUCING:** Yes ☐ No ☐ **AMOUNT PER MONTH** n/a **Year** n/a

**APPROVED BY:** County Atty xx OMB/Purchasing ☐ Risk Management ☐

**DIVISION DIRECTOR APPROVAL:**

 08/10/05

John R. Collins, County Attorney

**DOCUMENTATION:** Included ☒ Not Required ☐

**DISPOSITION:** \_\_\_\_\_

**AGENDA ITEM #** \_\_\_\_\_



**RESOLUTION NO. -2005**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF  
MONROE COUNTY, FLORIDA APPROVING THE SETTLEMENT  
AGREEMENT AS EXECUTED ON JULY 26, 2005 BY BOTH PARTIES,  
MARK FRALEIGH AND MONROE COUNTY BOCC.**

**WHEREAS**, Monroe County initiated litigation against Mark Fraleigh to force the removal of structures that encroach on the County's Right of Way on Card Sound Road; and

**WHEREAS**, Circuit Judge Luis Garcia of the 16<sup>th</sup> Judicial Circuit referred this matter to mediation; and

**WHEREAS**, mediation was held on July 26, 2005 before former Judge David Kirwin; and

**WHEREAS**, the mediation produced a tentative settlement agreement, a copy of which is attached hereto and incorporated by reference herein; and

**WHEREAS**, this Agreement is contingent upon the approval of the Monroe County Board of County Commissioners; and

**WHEREAS**, in order to resolve the issues which led to the matter of Monroe County v. Mark Fraleigh, CA P 03-647 and buy peace in said matter; now therefore

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MONROE COUNTY, FLORIDA, as follows:**

1. That the Board of County Commissioners of Monroe County, Florida hereby adopts and approves the attached settlement agreement dated July 26, 2005.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of the Board held on the 17<sup>th</sup> day of August, 2005.

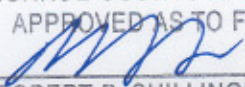
Mayor Spehar  
Mayor Pro Tem McCoy  
Commissioner Nelson  
Commissioner Neugent  
Commissioner Rice

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(SEAL)  
Attest: DANNY L.KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By \_\_\_\_\_  
Deputy Clerk

By \_\_\_\_\_  
MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
  
ROBERT B. SHILLINGER, JR.  
ASSISTANT COUNTY ATTORNEY  
Date 7-29-5

By \_\_\_\_\_  
Dixie M. Spehar, Mayor/Chairperson



IN THE CIRCUIT COURT OF THE  
16TH JUDICIAL CIRCUIT IN AND  
FOR MONROE COUNTY, FLORIDA

MONROE COUNTY BOCC,

CASE NO. CAP 03-647

Plaintiff,

-vs-

REPORT OF COURT  
ORDERED MEDIATION

MARK FRALEIGH,

Defendant.

A mediation hearing was held on July 26, 2005, for the above styled case. Mediator, David P. Kirwan, conducted the proceedings. All parties were present.

A complete agreement was reached.

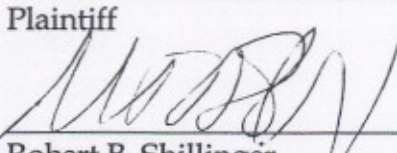
A summary of the agreement reached between the parties is as follows:  
Defendant, Mark Fraleigh, within 30 days of approval of this Agreement by the Monroe County Board of County Commissioners ("BOCC") shall remove all structures encroaching on the Monroe County right-of-way except the access stairway to the structure located off of the County right-of-way. If directed to do so by the Monroe County Biologist, Defendant shall remove such trees located within the adjacent right-of-way within 30 days of such direction.

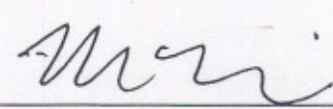
Defendant shall be deemed to have a revocable license (not an easement) from Monroe County allowing the access stairs to remain on the County right-of-way.

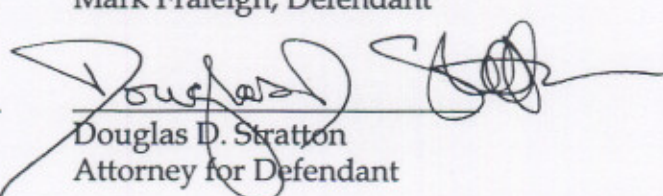
This agreement is contingent upon the approval of the Monroe County Board of County Commissioners.

Plaintiff agrees to file a voluntary dismissal without prejudice, each party to bear its own attorneys fees and costs.

\_\_\_\_\_  
Plaintiff

  
Robert B. Shillinger  
Assistant County Attorney  
Attorney for Plaintiff

  
Mark Fraleigh, Defendant

  
Douglas D. Stratton  
Attorney for Defendant